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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 ROSS CULLEN PLUMB,

12 Plaintiff,

13 v.

14 PETERSON, Pierce County Sheriff's Dept
15 Deputy, WHITEHEAD, Pierce County
16 Sheriff's Dept Deputy, PIERCE COUNTY
SHERIFF'S DEPARTMENT, SIDBEE,
formerly known as Silbee,

Defendants.

CASE NO. 19-5199 RJB-JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION

17 THIS MATTER comes before the Court on the Report and Recommendation of U.S.
18 Magistrate Judge J. Richard Creatura (Dkt. 24) and on the Plaintiff's motion for order ordering
19 Airway Heights Corrections Center to hold the Plaintiff's USB stick, which he asserts contains
20 files relevant to this case, "in trust by the law-librarian and/or the content of said USB stick be
21 printed out by the law-librarian and given to the indigent plaintiff as soon as possible" (Dkt. 27).
22 The Court has considered the Report and Recommendation, objections to the Report and
23 Recommendation, the pleadings filed regarding the motion, and is fully advised.
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1 On March 15, 2019, the Plaintiff filed this case, asserting that on January 7, 2015, the
2 Defendants used excessive force and denied him medical treatment after being removed from a
3 courtroom for his arraignment in violation of his constitutional rights. Dkts. 1 and 7. The Report
4 and Recommendation recommends this Court grant Defendants Pierce County Sheriff's
5 Department, Deputy Michael Petersen, and Deputy Matthew Whitehead's motion to dismiss
6 (Dkt. 15) because res judicata bars relitigation of Plaintiff's case. Dkt. 24. The Report and
7 Recommendation also recommends dismissal, without prejudice, of the unserved Defendant
8 "Sidbee." *Id.* It further recommends denying the Defendants' motion for clarification (Dkt. 20)
9 as moot. *Id.*

10 The Plaintiff filed objections to the Report and Recommendation. Dkts. 25 and 28. In
11 his first set of objections, the Plaintiff asserts that he has been wrongfully denied a public records
12 request and other discovery, and he asserts that the violation of his rights "have taken place over
13 multiple periods of time and continue," so the statute of limitations should not apply. Dkt. 25.
14 He maintains, in his second set of objections, that prior claims of violations of the Public
15 Records Act "by the Defendants may not be res judicata, prior preceeding [sic] may not have
16 been able to grant damages for said claim." Dkt. 28.

17 The Report and Recommendation (Dkt. 24) should be adopted. This case is barred by res
18 judicata because the Plaintiff brought the same claims against the same Defendants based on the
19 same event in *Plumb v. Peterson, et. al*, Western District of Washington case number 2:17-cv-
20 0419 RJB ("*Plumb I*"). *Plumb I* was dismissed with prejudice on April 13, 2018. *Id.*, Dkt. 24.
21 The Plaintiff's objections and motion fail to show that the Report and Recommendation should
22 be rejected. The Plaintiff's discussion of discovery he alleges he did not receive or the
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1 Defendants' alleged failure to provide public records do not in any way address whether this case
2 is barred by res judicata or not. This case should be dismissed as barred by res judicata.

3 Further, the Plaintiff raises no objections to the dismissal of "Defendant Sidbee" without
4 prejudice. There is no objection to denying the Defendants' motion for clarification (Dkt. 20) as
5 moot.

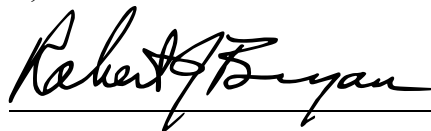
6 Additionally, the Plaintiff's motion for order regarding Airway Heights Corrections
7 Center and the Plaintiff's USB stick (Dkt. 27) should be denied as moot. This case should be
8 dismissed as barred by res judicata. Further, the motion seeks relief from an entity that is not a
9 party in this case.

10 It is **ORDERED** that:

- 11 • The Report and Recommendation (Dkt. 24) **IS ADOPTED**;
- 12 • This case **IS DISMISSED** as barred by res judicata;
- 13 • Defendant Sidbee **IS DISMISSED WITHOUT PREJUDICE**; and
- 14 • The Defendants' motion for clarification (Dkt. 20) and the Plaintiff's motion
15 regarding the USB stick (Dkt. 27) **ARE DENIED AS MOOT**.

16 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge J.
17 Richard Creatura, all counsel of record and to any party appearing *pro se* at said party's last
18 known address.

19 Dated this 9th day of September, 2019.

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21 ROBERT J. BRYAN
22 United States District Judge
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